

To the members of the Montana Senate Agriculture, Livestock and Irrigation Committee:

I am a fifth generation Montana and full-time fishing guide. Many of my relatives have been ranchers or farmers and none of them have ever had to deal with anglers trying to fish their irrigation systems.

As a full-time fishing guide, this bill will have the effect of immediately putting me and thousands of others in the same field out of business by privatizing so many rivers and streams in Montana. Guides, outfitters, lodges, cooks, chefs, cleaning staff....all unemployed because of one bad bill.

Why?

House Bill 309 is an ill-conceived and poorly worded bill that will undermine Montana stream access.

To start, **Montana Code 23-2-302 c** prohibits access to:

*"the recreational use of waters while diverted away from a natural water body for beneficial use pursuant to Title 85, chapter 2, part 2 or 3, except for impoundments or diverted waters to which the owner has provided public access;"*

Montana law already clearly states that water diverted away from rivers is off limits to anglers except with the permission of the property owner.

Diversions are clearly and broadly defined in **Montana Code 23-2-301 6**:

*"Diverted away from a natural water body" means a diversion of surface water through a constructed water conveyance system..."*

This is a broad definition and makes any reasonable diversion allowable.

Property owners are absolved from liability through the following:

**"85-7-2212. Irrigation ditches -- nonliabilities.** *An irrigation district or private person or entity owning or operating irrigation ditches is not liable for:*

*(3) injury to a person or property while, without authorization of the district or private person or entity, the person or property is on land or water controlled by the district or private person or entity, unless the irrigation district or private person or entity engaged in willful or wanton misconduct;"*

We have already is a clear definition of irrigation ditches, that they are private property and that property owners have more than reasonable protection of liability should someone trespass.

There is no need for further clarification unless there is an ulterior motive at play. That motive is to redefine natural bodies of water and restrict stream access with the new language included in HB 309.

The following is **Montana Code 85-1-101**:

*"It is hereby declared as follows:*

*(1) The general welfare of the people of Montana, in view of the state's population growth and expanding economy, requires that water resources of the state be put to optimum beneficial use and not wasted.*

*(2) The public policy of the state is to promote the conservation, development, and beneficial use of the state's water resources to secure maximum economic and social prosperity for its citizens."*

I'll also add:

**"85-1-103. Interpretation of title.** *The object of this title is to promote the prosperity and welfare of the people of Montana through the sound management of the state's water resources, and its provisions are to be given a liberal interpretation."*

The protections that HB 309 claims to address already exist. It also directly conflicts with the water use laws outlined in Title 85 as the privatization of natural water ways takes away the ability to promote prosperity and welfare for the optimum benefit of Montanans.

HB 309 is not sound and will inflict a great amount of financial harm to Montana by severely restricting tourism and recreation opportunities.

Can we afford to harm Montana's economic well being and thousands of jobs by redefining natural waterways as irrigation ditches?

No we can not. Please vote no.

Respectfully,

David Palmer  
720 Black Diamond Rd  
Billings, MT 59105